

CHAPTER 25
GOVERNMENTAL ETHICS

SUBCHAPTER I
STATEMENT OF PURPOSE

1 § 1001. Statement of purpose

It is essential under the American system of representative government that the people have faith and confidence in the integrity of the election process and the members of the Legislature. In order to strengthen this faith and confidence that the election process reflects the will of the people and that each Legislator considers and casts his vote on the enactment of laws according to the best interests of the public and his constituents, there is created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process and against acts or the appearance of misconduct by Legislators.

1 § 1002. Commission on Governmental Ethics and Election Practices

1. Membership. The Commission on Governmental Ethics and Election Practices, established by Title 5, section 12004-G, subsection 33 and referred to in this chapter as the "commission," consists of five members appointed as follows.

- A. As needed, the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leader shall jointly establish and publish a nomination period during which members of the public, groups and organizations may nominate qualified individuals to the Governor for appointment to the commission.
- B. The Governor shall appoint the members of the commission, taking into consideration nominations made during the nomination period, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature. No more than two (2) commission members may be enrolled in the same political party.
- C. Appointees are appointed to serve four-year terms. A person may not serve more than two terms.
- D. The commission members shall elect one member to serve as chair for at least a two-year term.
- E. A vacancy during an unexpired term must be filled as provided in this subsection for the unexpired portion of the term only.
- F. This subsection is repealed January 1, 2002.

1-A. Membership. The Commission on Governmental Ethics and Election Practices, established by Title 5, section 12004-G, subsection 33 and referred to in this chapter as the "commission," consists of five members appointed as follows.

A. By December 1, 2001 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives jointly shall establish and advertise a 30-day period to allow members of the public and groups and organizations to propose qualified individuals to be nominated for appointment to the commission.

B. By January 1, 2002 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives each shall present a list of three qualified individuals to the Governor for appointment of 4 members to the commission. The appointed leadership from each party in both bodies of the Legislature jointly shall present a list of three qualified individuals to the Governor for appointment of a fifth member to the commission.

C. By March 15, 2002, the Governor shall appoint the members of the commission selecting one member from each of the lists of nominees presented in accordance with paragraph A. These nominees are subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature. No more than two (2) commission members may be enrolled in the same party.

D. Two initial appointees are appointed for one-year terms, two are appointed for two-year terms and one is appointed for a three-year term, according to a random lot drawing under the supervision of the Secretary of State. Subsequent appointees are appointed to serve three-year terms. A person may not serve more than two terms.

E. The commission members shall elect one member to serve as chair for at least a two-year term.

F. Upon a vacancy during an unexpired term, the term must be filled as provided in this paragraph for the unexpired portion of the term only. The nominee must be appointed by the Governor from a list of three (3) qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee who created the vacancy. If the vacancy during an unexpired term was created by the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of three (3) qualified candidates provided jointly by the leaders of each party of each body of the Legislature. If the list of three (3) qualified candidates required by this paragraph to be presented to the Governor by the leaders of each party from each body of the Legislature is not produced within 60 days after the vacancy is created, then the leaders of each party from both bodies of the Legislature shall present within the subsequent 15 days a separate list of three (3) qualified candidates to the Governor, who shall appoint a candidate from these lists within 30 days of receiving the lists. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having

jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

G. Upon a vacancy created by an expired term, the vacancy must be filled as provided in this paragraph. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee whose term expired. When a vacancy is created by an expired term of the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of three (3) qualified candidates provided jointly by the leaders of each party of each body of the Legislature. If the list of three (3) qualified candidates required by this paragraph to be presented to the Governor by the leaders of each party from each body of the Legislature is not produced within 60 days after the vacancy is created, then the leaders of each party from both bodies of the Legislature shall present within the subsequent 15 days a separate list of three (3) qualified candidates to the Governor, who shall appoint a candidate from these lists within 30 days of receiving the lists. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

H. For the purposes of this subsection, "political party" has the same meaning as "party" as defined by Title 21-A, section 1, subsection 28.

2. Qualifications. The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within two years prior to the appointment or who now holds an elective county, state or federal office. A person may not serve on the commission who is an officer, director, employee or primary decision maker of a party committee, political action committee or candidate committee authorized under Title 21-A, section 1013-A, subsection 1, paragraph B.

2. A. Conflict of Interest. This subsection covers conflicts of interest of members of the commission.

A. A member of the commission has a conflict of interest in a matter before the commission if the member has a business or close political relationship with a party to the matter. A close political relationship exists when a member has significant past or ongoing involvement with a political committee or a candidate, as defined in Title 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization involved in the matter, that would lead a reasonable person to believe that the member is unable to objectively consider the matter. A close political relationship is not created by making a contribution to a political committee, organization or candidate; party enrollment status; or mere membership in an organization involved in the matter.

B. If members of the commission have a conflict of interest in a matter before the commission, the members shall recuse themselves from the matter and may not vote on or attempt to influence the outcome of the matter. Whether or not recusal is required

under this paragraph, members of the commission shall consider recusing themselves from any matter that would give rise to an appearance of a conflict of interest.

2. B. Annual disclosure statement. Each member shall file a disclosure statement with the executive director of the commission by February 15th of each year, which must include:

A. The names of and the positions held in all candidate committees, political action committees, ballot question committees and party committees of which the member or the member's spouse or domestic partner was an officer, director or primary decision maker or fund raiser during the previous calendar year;

B. The names of and positions held in all nonprofit or commercial organizations of which the member or the member's spouse or domestic partner was an owner, officer, director or primary decision maker or fund raiser that, during the previous calendar year, made expenditures of more than \$1,500 to influence an election or employed a lobbyist who was required to register with the commission; and

C. Any additional information that the commission determines appropriate.

A member shall notify the executive director if the member becomes an officer, director, employee or primary decision maker or fund raiser of a party committee, political action committee, ballot question committee or candidate committee within 21 days of the event.

3. Oath. Each member shall, within 10 days of his appointment, take an oath of office to faithfully discharge the duties of a commissioner in the form prescribed by the Constitution. Such oath shall be subscribed to by the commissioner taking it, certified by the officer before whom it is taken and immediately filed in the Office of the Secretary of State.

4. Legislative per diem. The members of the commission are entitled to receive legislative per diem according to Title 5, chapter 379.

5. Employees. The commission shall employ an executive director and such other assistance as may be necessary to carry out its duties. The commission also shall retain a general counsel or a computer analyst as an employee of the commission, based on the staffing needs of the executive director. If the Commission employs a general counsel, the general counsel may not hold any other state office or otherwise be employed by the State. The commission shall select the executive director by an affirmative vote of at least 4 commission members.

6. Prohibited activities. A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate. This prohibition does not apply to fund-raising for campaigns or endorsement of candidates at the county or municipal level or out-of-state nonfederal elections.

7. Removal of members. A member of the commission may be removed by the Governor for inefficiency, willful neglect of duty, malfeasance in office, engaging in prohibited activities or failure to continually meet the qualifications set out by this

section or to comply with the disclosure requirements, but only with the review and concurrence of the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics upon hearing in executive session, or impeachment by the Legislature. Before removing a board member, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives of the removal and the reasons for the removal.

1 § 1003. Procedures, rules and regulations

1. Procedures, rules and regulations. The commission shall adopt such procedures, rules and regulations as may appear necessary for the orderly, prompt, fair and efficient carrying out of its duties, consistent with this chapter.

2. Records. Except as provided in section 1013, all records of the commission, including business records, reports made to or by the commission, findings of fact and opinions, must be made available to any interested member of the public who may wish to review them. Any member of the public may request copies of any record held by the commission that is available for public inspection. The commission shall furnish these copies upon payment of a fee covering the cost of reproducing them.

1 § 1004. Meetings

The commission shall meet on the call of the Speaker of the House or the President of the Senate to perform the duties required of it or as specifically provided in this chapter. The commission shall also meet at other times at the call of the chair or at the call of a majority of the members, provided all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

1 § 1005. Open meetings

Notwithstanding chapter 13 and except as provided in section 1013, subsection 3-A, all meetings, hearings or sessions of the commission are open to the general public unless, by an affirmative vote of at least three (3) members, the commission requires the exclusion of the public.

1 § 1006. Assistance

The commission may call for the aid or assistance in the performance of its duties on the Attorney General, Secretary of State, Department of Audit or any law enforcement agency in this State. When called upon, these agencies shall comply to the utmost of their ability.

1 § 1007. Annual report

The commission shall submit to the Legislature and the public an annual report discussing its activities under this chapter and any changes it considers necessary or appropriate regarding ethical standards.

1 § 1008. General duties

The general duties of the commission shall be:

- 1. Legislative ethics.** To investigate and make advisory recommendations to the appropriate body of any apparent violations of legislative ethics;
- 2. Election practices.** To administer and investigate any violations of the requirements for campaign reports and campaign financing, including the provisions of the Maine Clean Election Act and the Maine Clean Election Fund;
- 3. Ethics seminar.** To conduct, in conjunction with the Attorney General and the Chair of the Legislative Council or their designees, an ethics seminar for Legislators after the general election and before the convening of the Legislature, in every even-numbered year. The Attorney General shall provide each Legislator with a bound compilation of the laws of this State pertaining to legislative ethics and conduct;
- 4. Lobbyist activities.** To administer the lobbyist disclosure laws, Title 3, chapter 15;
- 5. Maine Clean Election Act and Maine Clean Election Fund.** To administer and ensure the effective implementation of the Maine Clean Election Act and the Maine Clean Election Fund according to Title 21-A, chapter 14; and
- 6. Enhanced monitoring; source of revenue.** To provide for enhanced monitoring and enforcement of election practices and the electronic submission of reports and computerized tracking of campaign, election and lobbying information under the commission's jurisdiction.

1 § 1009. Recommendations to Legislature

Following a general election, the commission may solicit suggestions for improving campaign financing and reporting and the administration of the other areas within the commission's jurisdiction. The commission shall review the suggestions and may submit legislation within 90 days of the general election.

SUBCHAPTER II

LEGISLATIVE ETHICS

1 § 1011. Statement of purpose

The Maine Legislature enjoys a high reputation for progressive accomplishment. The vast majority of its members are public officers of integrity and dedication, seeking at all times to maintain high standards of ethical conduct.

The public interest is best served by attracting and retaining in the Legislature men and women of high caliber and attainment. The public interest will suffer if unduly stringent requirements deprive government "of the services of all but princes and paupers."

Membership in the Legislature is not a full-time occupation and is not compensated on that basis; moreover, it is measured in two-year terms, requiring each member to recognize and contemplate that his election will not provide him with any career tenure.

Most Legislators must look to income from private sources, not their public salaries, for their sustenance and support for their families; moreover, they must plan for the day when they must return to private employment, business or their professions.

The increasing complexity of government at all levels, with broader intervention into private affairs, makes conflicts of interest almost inevitable for all part-time public officials, and particularly for Legislators who must cast their votes on measures affecting the lives of almost every citizen or resident of the State. The adoption of broader standards of ethics for Legislators does not impugn either their integrity or their dedication; rather it recognizes the increasing complexity of government and private life and will provide them with helpful advice and guidance when confronted with unprecedented or difficult problems in that gray area involving action which is neither clearly right nor clearly wrong.

If public confidence in government is to be maintained and enhanced, it is not enough that public officers avoid acts of misconduct. They must also scrupulously avoid acts which may create an appearance of misconduct.

The Legislature cannot legislate morals and the resolution of ethical problems must indeed rest largely in the individual conscience. The Legislature may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety.

1 § 1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Close economic association. "Close economic association" means the employers, employees, partners or clients of the Legislator or a member of the Legislator's immediate family; corporations in which the Legislator or a member of the Legislator's immediate family is an officer, director or agent or owns 10% or more of the outstanding capital stock; a business which is a significant unsecured creditor of the Legislator or a member of the Legislator's immediate family; or a business of which the Legislator or a member of the Legislator's immediate family is a significant unsecured creditor.

1-A. Associated organization. "Associated organization" means any organization in which a Legislator or a Legislator's spouse is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

2. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices.

3. Employee. "Employee" means a person in any employment position, including public or private employment, employment with a nonprofit, religious, charitable or educational organization, or any other compensated service under an expressed, implied, oral or written contract for hire, but does not include a self-employed person.

4. Gift. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

- A. Gifts received from a single source during the reporting period with an aggregate value of \$300 or less;
- B. A bequest or other form of inheritance;
- C. A gift received from a relative;
- D. A subscription to a newspaper, news magazine or other news publication; or
- E. Legal services provided in a matter of legislative ethics.

5. Honorarium. "Honorarium" means a payment of money or anything with a monetary resale value to a Legislator for an appearance or a speech by the Legislator. Honorarium does not include reimbursement for actual and necessary travel expenses for an appearance or speech. Honorarium does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties as a member of the Legislature.

6. Immediate family. "Immediate family" means a Legislator's spouse or dependent children.

7. Income. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income from an

interest in an estate or trust; prizes; and grants, but does not include gifts. Income received in kind includes, but is not limited to, the transfer of property and options to buy or lease, and stock certificates. "Income" does not include;

- A. Alimony and separate maintenance payments; or
- B. Campaign contributions recorded and reported as required by Title 21-A, chapter 13.

8. Relative. "Relative" means an individual who is related to the Legislator or the Legislator's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiancé or fiancée of the Legislator.

9. Self-employed. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13.

10. Violation of legislative ethics. "Violation of legislative ethics" means a violation of the prohibitions in section 1014 or 1015.

1 § 1013. Authority; procedures

1. Authority. The commission has authority:

- A. To issue, on request of any Legislator on an issue involving that Legislator, or on its own motion, written advisory opinions and guidance on problems or questions involving possible violations of legislative ethics;
- B. To investigate complaints alleging violation of legislative ethics against any Legislator, to hold hearings on those complaints if the commission determines it is appropriate and to issue findings of fact together with its opinion; and
- C. To administer the disclosure of sources of income by Legislators as required by this subchapter.

2. Procedure. The following procedures apply.

- A. Requests for advisory opinions by members of the Legislature must be filed with the commission in writing and signed by the Legislator requesting the opinion and must contain such supporting data as the commission requires. Commission staff shall inform a Legislator upon that Legislator's request for an advisory opinion that written opinions issued by the commission are public and are submitted to the Clerk of the House and the Secretary of the Senate and entered into the legislative record. When preparing an advisory opinion on its own motion, the commission shall notify the Legislator concerned and allow the Legislator to provide additional information to the commission. In preparing an advisory opinion, either upon request or on its own motion, the commission may make such an investigation as it determines necessary. A copy of the commission's advisory opinion must be sent to the Legislator

concerned and to the presiding officer of the legislative body of which the Legislator is a member.

B. (REPEALED)

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in section 1014 and 1015. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and 1015 that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

- (1) The Legislator against whom a complaint is filed must immediately be given a copy of the complaint and the name of the complainant.
- (2) The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within two (2) years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.
- (3) The commission shall issue its findings of fact together with its opinion regarding the alleged violation of legislative ethics to the legislative body of which the Legislator concerned is a member. That legislative body may take whatever action it determines appropriate, in accordance with the Constitution of Maine.
- (4) If the commission determines that a Legislator has potentially violated professional standards set by a licensing board, its opinion and such other information as may be appropriate must be referred to the licensing board that oversees the Legislator's professional conduct.

C. When the conduct of a particular Legislator is under inquiry and a hearing is to be held, the Legislator must be given written notification of the time and place at which the hearing is to be held. Such notification must be given not less than ten (10) days prior to the date set for the hearing.

D. The commission has authority, through its chair or any member designated by the chair, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records the commission determines relevant. The State, its agencies and instrumentalities shall furnish to the commission any information, records or documents the commission designates as being necessary for the exercise of its functions and duties. In the case of refusal of any person to obey an order or subpoena of the commission, the Superior Court, upon application of the commission, has jurisdiction and authority to require

compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as a contempt thereof.

E. The commission shall adopt rules consistent with due process for the conduct of investigations and hearings under this subchapter. Rules adopted pursuant to this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The commission is not bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

E-1. The commission may permit the complainant to make a presentation to the commission as part of its consideration whether to conduct an investigation or public hearing.

F. If the commission concludes that it appears that a Legislator has violated a criminal law, a copy of its findings of fact, its opinion and such other information as may be appropriate must be referred to the Attorney General. Any determination by the commission or by a legislative body that a violation of legislative ethics has occurred does not preclude any criminal action relating to the violation that may be brought against the Legislator.

G. If the commission determines that a complaint filed under oath is frivolous or filed in bad faith or if the complainant fails to appear at the hearing without being excused by the commission, the commission may order the complainant to pay to the Legislator against whom the complaint has been filed that Legislator's costs of investigation and defense, including any reasonable attorney's fees. This order is considered a final agency action, and the complainant may appeal the order pursuant to the Maine Administrative Procedure Act. If the commission determines that the complaint was filed in bad faith, the commission shall refer the case to the Attorney General for investigation.

Such an order does not preclude any other remedy available to the Legislator against whom the complaint has been filed, including, but not limited to, an action brought in Superior Court against the complainant for damages to the Legislator's reputation.

H. The commission shall file with the Clerk of the House and the Secretary of the Senate a copy of written advisory opinions and guidance issued by the commission that were formally requested by a Legislator and that were considered by the commission at a public meeting, with such deletions and changes as the commission considers necessary to protect the identity of the person seeking the opinions or others. The Clerk of the House shall keep a copy of such opinions and guidance in a special binder and shall finally publish them in the Legislative Record. The commission may exempt an opinion or a part of an opinion from release, publication or inspection if it considers such action appropriate for the protection of third parties and makes available to the public an explanatory statement to that effect.

I. A copy of the commission's findings of fact and opinions regarding complaints against Legislators must also be filed with the Clerk of the House and the Secretary of the Senate. The Clerk of the House shall keep them in a special binder and shall finally publish them in the Legislative Record.

J. (REPEALED).

K. When a Legislator has a question or problem of an emergency nature about a possible violation of legislative ethics or an issue involving that Legislator that arises during the course of legislative action, the Legislator may request an advisory opinion from the presiding officer of the legislative body of which the Legislator is a member. The presiding officer may issue an advisory opinion. An advisory opinion issued by the presiding officer must be in accordance with the principles of this subchapter, be in writing and be reported to the commission. The commission may then issue a further opinion on the matter. The presiding officer may refer such a question or problem directly to the commission, which shall meet as soon as possible to consider the question or problem.

L. The commission shall make reasonable efforts to resolve a complaint within 90 days of its filing.

3. Confidentiality. (REPEALED)

3-A. Confidentiality of records and proceedings relating to screening complaints alleging a violation of legislative ethics. Notwithstanding chapter 13, a complaint alleging a violation of legislative ethics is confidential and is not a public record until after the commission has voted pursuant to subsection 2, paragraph B-1 to pursue the complaint, and a commission proceeding to determine whether to pursue a complaint must be conducted in executive session. If the commission does not vote to pursue the complaint, the complaint and records relating to the investigation of that complaint remain confidential and are not public records unless the Legislator against whom the complaint is made submits a written request that the complaint and all accompanying materials be made public. This subsection does not prohibit a complainant from disclosing information that the complainant provided to the commission as part of the complaint or investigation once the commission has determined not to pursue the complaint or the investigation of a complaint is complete. This subsection does not prevent the commission from including general information about complaints in any report to the Legislature. Any person who knowingly breaches the confidentiality of a complaint investigation commits a Class D crime. This subsection does not prevent commission staff from disclosing information to a person from whom the commission is seeking information or evidence relevant to the complaint that is necessary to investigate the complaint or prevent the complainant or the Legislator against whom the complaint is made from discussing the complaint with an attorney or other person assisting them with the complaint. The commission or commission staff shall inform any person with whom they communicate of the requirement to keep any information regarding the complaint investigation confidential.

4. Confidentiality of records other than complaints. Commission records other than complaints are governed by this subsection.

- A. Investigative records relating to complaints that the commission has voted to pursue are confidential unless they are provided to commission members or otherwise distributed at a public hearing of the commission.
- B. Legislators' statements of sources of income are public records.
- C. Findings of fact and recommendations of the commission on complaints alleging violation of legislative ethics are public records.
- D. Advisory opinions of the commission and requests for advisory opinions from the commission are public records, except as provided in subsection 2, paragraph H.

5. Prohibited communications. Communications concerning a complaint filed under this section between commission members and a complainant or between commission members and the subject of a complaint are prohibited until after the commission has voted not to pursue a complaint or the commission has taken final action on the complaint.

1 § 1014. Violations of legislative ethics

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. A conflict of interest includes:

- A. When a Legislator or a member of the Legislator's immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise that would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation;
- B. When a Legislator or a member of the Legislator's immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in an entity affected by proposed legislation and the Legislator knows or reasonably should know that the purpose of the donor in making the gift is to influence the Legislator in the performance of the Legislator's official duties or vote or is intended as a reward for action on the Legislator's part;
- C. Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator;

D. Appearing for, representing or advocating on behalf of another before the Legislature, unless without compensation and for the benefit of a citizen;

E. When a Legislator or a member of the Legislator's immediate family accepts or engages in employment that could impair the Legislator's judgment, or when the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded the Legislator or a member of the Legislator's immediate family with intent to influence the performance of the Legislator's official duties, or when the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community; and

F. When a Legislator or a member of the Legislator's immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of the Legislator's immediate family is engaged, and the benefit derived by the Legislator or a member of the Legislator's immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2. Undue influence. It is presumed that a conflict of interest exists when there are circumstances that involve a substantial risk of undue influence by a Legislator, including but not limited to the following cases.

A. Appearing for, representing or assisting another in a matter before a state agency or authority, unless without compensation and for the benefit of a constituent, except for attorneys or other professional persons engaged in the conduct of their professions.

(1) Even in the excepted cases, an attorney or other professional person must refrain from references to that attorney or professional person's legislative capacity, from communications on legislative stationery and from threats or implications relating to legislative action.

B. Representing or assisting another in the sale of goods or services to the State, a state agency or authority, unless the transaction occurs after public notice and competitive bidding.

3. Abuse of office or position. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes an abuse of office or position, including but not limited to:

A. When a Legislator or a member of the Legislator's immediate family has a direct financial interest or an interest through a close economic associate in a contract for goods or services with the State, a state agency or state authority unless the contract is awarded through competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws or the payment provisions are based on uniform rates established by the State, a state agency, a state authority or other governmental entity;

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another, which privilege, exemption or treatment is not readily

available to members of the general community or class to which the beneficiary belongs; and

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

4. Contract with state governmental agency. It is a violation of legislative ethics for a Legislator or an associated organization to enter with a state agency into any contract that is to be paid in whole or in part out of governmental funds unless the contract has been awarded through a process of public notice and competitive bidding or is exempt from competitive bidding pursuant to state purchasing laws.

1 § 1015. Prohibited campaign contributions and solicitations

1. Actions precluded. (REPEALED)

2. Reports. (REPEALED)

3. Campaign contributions and solicitations prohibited. The following provisions prohibit certain campaign contributions and solicitation of campaign contributions during a legislative session.

A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist associate" have the same meanings as in Title 3, section 312-A. As used in this subsection, "contribution" has the same meaning as in Title 21-A, section 1012 and includes seed money contributions as defined in Title 21-A, section 1122, subsection 9.

B. The Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate or employer during any period of time in which the Legislature is convened before final adjournment, except for a qualifying contribution as defined under Title 21-A, section 1122, subsection 7. A lobbyist, lobbyist associate or employer may not intentionally give, offer or promise a contribution, other than a qualifying contribution, to the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer during any time in which the Legislature is convened before final adjournment. These prohibitions apply to direct and indirect solicitation, acceptance, giving, offering and promising, whether through a political action committee, political committee, political party or otherwise.

C. This subsection does not apply to:

- (1) Solicitations or contributions for bona fide social events hosted for nonpartisan, charitable purposes;
- (2) Solicitations or contributions relating to a special election to fill a vacancy from the time of announcement of the election until the election;

(3) Solicitations or contributions accepted by a member of the Legislature supporting that member's campaign for federal office.

C-1. This subsection does not prohibit the attendance of the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer at fund-raising events held by a municipal, county, state or national political party organized pursuant to Title 21-A, chapter 5, nor the advertisement of the expected presence of any such official at any such event, as long as any such official has no involvement in soliciting attendance at the event and all proceeds are paid directly to the political party organization hosting the event or a nonprofit charitable organization.

D. A person who intentionally violates this subsection is subject to a civil penalty not to exceed \$1,000, payable to the State and recoverable in a civil action.

4. Contract with state governmental agency. (REPEALED)

1 § 1016. Statement of sources of income. (REPEALED)

1 § 1016-A. Disclosure of specific sources of income

Each Legislator shall file a statement of specific sources of income received in the preceding calendar year with the commission by 5:00 p.m. on February 15th of each year on forms provided by the commission. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives. The statement of specific sources of income filed under this subchapter must be on a form prescribed by the commission and is a public record.

1. Disclosure of Legislator's income. The Legislator filing the statement shall name and give the address of each specific source of income received as follows.

A. A Legislator who is an employee of another shall name the employer and each other source of income of \$1,000 or more.

B. A Legislator who is self-employed shall state that fact and the name and address of the Legislator's business. The Legislator shall name each source of income derived from self-employment that represents more than 10% of the Legislator's gross income or \$1,000, whichever is greater, provided that if this form of disclosure is prohibited by law, rule or an established code of professional ethics, the Legislator shall only specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed Legislator shall name each source of income of \$1,000 or more. The Legislator shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association or similar business entity, the major areas of economic activity of that entity.

C. In identifying the source of income, it shall be sufficient to identify the name and address and the principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the Legislator.

D. With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm, in such manner as the commission may require.

2. Campaign contributions. Campaign contributions duly recorded as required by law shall not be considered income.

3. Disclosure of gifts. The Legislator shall name the specific source of each gift that the Legislator receives.

4. Disclosure of income of immediate family. The Legislator shall disclose the type of economic activity representing each source of income of \$1,000 or more that any member of the immediate family of the Legislator received and the name of the spouse or domestic partner of the Legislator. The disclosure must include the job title of the Legislator and the members of the Legislator's immediate family if the source of income is derived from employment or compensation.

5. Disclosure of honoraria. The Legislator shall disclose the name of each source of honoraria that the Legislator accepted.

6. Representation before state agencies. The Legislator shall identify each executive branch agency before which the Legislator has represented or assisted others for compensation.

7. Business with state agencies. The Legislator shall identify each executive branch agency to which the Legislator or the Legislator's immediate family has sold goods or services with a value in excess of \$1,000.

1 § 1016-B. Disclosure of reportable liabilities

Each Legislator shall include on the statement of income under section 1016-A all reportable liabilities incurred during the Legislator's term of office.

1. Definition. For the purposes of this section, "reportable liability" means any unsecured loan of \$3000 or more received from a person not a relative. "Reportable liability" does not include:

A. A credit card liability;

B. An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

C. A loan made from a state or federally regulated financial institution for business purposes.

2. Reporting. A Legislator shall make a supplementary statement to the commission of any reportable liability within 30 days after it is incurred. The report shall identify the creditor in the manner of section 1016-A, subsection 1, paragraph C.

3. Campaign contributions. Campaign contributions duly recorded as required by law are not required to be reported under this section.

1 § 1016-C. Reports by legislative candidates

A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who is not required to file a report under section 1016-A or 1016-B shall file a report containing the same information required of Legislators under sections 1016-A and 1016-B no later than 5 p.m. on the first Monday in August preceding the general election unless the candidate withdraws from the election in accordance with Title 21-A, section 374-A by that date.

1 § 1016-D. Disclosure of bids on government contracts

When a Legislator or associated organization bids on a contract with a state governmental agency, the Legislator or associated organization shall file a statement with the commission no later than 5:00 p.m. on the day the bid is submitted that discloses the subject of the bid and the names of the Legislator, associated organization and state governmental agency as appropriate. The bid disclosure statement filed under this section must be on a form prescribed by the commission and is a public record as defined in section 402.

1 § 1016-E. Disclosure of interests

Beginning in 2010, each Legislator shall file with the commission by 5:00 p.m. on February 15th of each year on the form provided by the commission a statement of those positions set forth in this section that were held in the preceding calendar year. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives. The statement of positions is a public record.

1. Disclosure of officer or director position. A Legislator filing a statement under this section shall report:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the Legislator in the preceding calendar year with any for-profit or nonprofit firm, corporation, association, partnership or business; and

B. Any officers, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, hold by a member of the immediate family of the

Legislator with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the Legislator's immediate family.

1 § 1016-F. Internet disclosure.

The commission shall publish on its publicly accessible website the completed forms submitted by Legislators pursuant to sections 1016-A, 1016-B, 1016-D, 1016-E and 1018 and by candidates for the Legislature pursuant to section 1016-C.

1 § 1017. Form; contents (REPEALED)

1 § 1017-A. Civil penalties; late and incomplete statements; failure to file

A Legislator who fails to file a statement in accordance with this subchapter after being notified by the commission may be assessed a fine not to exceed \$100. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

1 § 1018. Updating statement

A Legislator shall file an updating statement with the commission on a form prescribed and prepared by the commission. The statement must be filed within 30 days of addition, deletion or change to the information relating to the preceding year supplied under this subchapter.

1 § 1019. False statement; failure to file

The intentional filing of a false statement shall be a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator shall be presumed to have a conflict of interest on every question and shall be precluded or punished as provided in section 1015.

1 § 1020. Penalty for false accusations

Any person who files a false charge of a conflict of interest with the commission or any member of the commission, which he does not believe to be true, or whoever induces another to file a false charge of a conflict of interest, which he does not believe to be true, shall be guilty of a Class E crime.

1 § 1021. Membership on boards, authorities or commissions

It shall not be a conflict of interest for a Legislator to serve on a public board, authority or commission created by the Legislature so long as there is no consideration paid to the Legislator other than his actual expenses.

1 § 1022. Disciplinary guidelines

The Legislature shall adopt, publish, maintain and implement, as authorized in the Constitution of Maine, Article IV, Part Third, Section 4, disciplinary guidelines and procedures for Legislators, including the violations of ethical standards, penalties of reprimand, censure or expulsion and the procedures under which these or other penalties may be imposed.

1 § 1023. Code of ethics

The Legislature by Joint Rule shall adopt and publish a code of ethics for Legislators and legislative employees.